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U.S. Application No. 09/709,038 Examiner NEURAUTER, Art Unit 2143
Response to January 16, 2007 Office Action

REMARKS

In response to the Office Action dated January 16, 2007, the Assignee respectfully requests reconsideration based on the above claim amendments and on the following remarks. The Assignee respectfully submits that the pending claims distinguish over *Armstrong*, *Luzzatti*, and *Stimmel* whether considered alone or in combination.

Claims 1, 3-4, 6-12, 14-29, and 31-47 are pending in this application. Claims 2, 5, 13, and 30 were previously canceled without prejudice or disclaimer.

The United States Patent and Trademark Office (the "Office") rejected claims 1, 3-4, 6-12, 14, 16-19, 21-29, and 31-47 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,807,423 to Armstrong. Claims 1, 12, 24, 27, and 43 were rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,714,519 to Luzzetti *et al.* Claims 1, 12, 24, 27, and 43 were also rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,678,719 to Stimmel. Claims 15 and 20 were rejected under 35 U.S.C. § 103 (a) as being obvious over *Armstrong* in view of *Luzzetti*.

As the Assignee shows, however, the pending claims distinguish over *Armstrong*, *Luzzatti*, and *Stimmel* whether considered alone or in combination.

Telephone Interview

Examiner Neurauter is thanked for the telephone interview of April 10, 2007. Examiner Neurauter agreed that the amended claims overcome the § 102 rejections. Once this response was formally submitted, Examiner Neurauter said he would update the search.

Rejection of Claims under 35 U.S.C. § 102 (e) to *Armstrong*

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The Office rejected claims 1, 3-4, 6-12, 14, 16-19, 21-29, and 31-47 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,807,423 to Armstrong. A claim, however, is only anticipated when each and every element is found in a single prior art reference. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). *See also* DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter "M.P.E.P.").

These claims cannot be anticipated by *Armstrong*. These claims recite, or incorporate, features that are not taught or suggested by *Armstrong*. Independent claim 1, for example, recites "*storing a profile associated with a second user, the second user's profile assigned a random and unique code number, and the second user's profile requiring a password to access the profile.*" Independent claim 1 also recites "*exchanging the second user's code number and password with the first user, thus allowing the first user to access the second user's profile.*" Support for such features may be found at least in the as-filed specification at page 3, lines 3-7 and at page 12, line 3 through page 13, line 6. Independent claims 12, 24, 37, and 43 recite similar features.

Armstrong is silent to such features. Examiner Neurauter is correct — *Armstrong* provides presence information to a "watching party." U.S. Patent 6,807,423 to Armstrong, *et al.* (Oct. 19, 2004) at column 3, lines 40-46 and at column 6, lines 48-61. No where, however, does *Armstrong* disclose or suggest "*storing a profile associated with a second user, the second user's profile assigned a random and unique code number, and the second user's profile requiring a password to access the profile.*" The patent to Armstrong, *et al.* also fails to disclose or suggest "*exchanging the second user's code number and password with the first user, thus allowing the first user to access the second user's profile.*" The patent to Armstrong, *et al.* wholly fails to contemplate at least these features.

Armstrong, then, cannot anticipate claims 1, 12, 24, 37, and 43. Because claims 3-4, 6-11, 14, 16-19, 21-23, 25-29, 31-36, 38-42, and 44-47 depend from one of claims 1, 12, 24, 37 and 43 and recite further features, the Assignee respectfully asserts that these claims are also

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allowable over *Armstrong*. These claims recite, or incorporate, many features that *Armstrong* fails to disclose or suggest. The Assignee, then, respectfully requests that Examiner Neurauter remove the § 102 (e) rejection of claims 1, 3-4, 6-12, 14, 16-19, 21-29, and 31-47.

Rejection of Claims under 35 U.S.C. § 102 (e) to Luzzetti

Claims 1, 12, 24, 27, and 43 were rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,714,519 to Luzzetti *et al.* These independent claims, however, cannot be anticipated by Luzzetti. These claims recite many features that are not taught or suggested by Luzzetti. The patent to Luzzetti, *et al.* discloses an "availability mode manager agent" that indicates a presence and/or an availability of a contact list. U.S. Patent 6,714,519 to Luzzetti *et al.* (Mar. 30, 2004) at column 4, lines 13-21 and at column 4, lines 55-67. Again, though, nowhere does Luzzetti disclose or suggest "storing a profile associated with a second user, the second user's profile assigned a random and unique code number, and the second user's profile requiring a password to access the profile." The patent to Luzzetti, *et al.* also fails to disclose or suggest "exchanging the second user's code number and password with the first user, thus allowing the first user to access the second user's profile." The patent to Luzzetti, *et al.* wholly fails to contemplate at least these features.

Luzzetti, then, cannot anticipate claims 1, 12, 24, 27, and 43. These claims recite many features that Luzzetti fails to disclose or suggest. The Assignee, then, respectfully requests that Examiner Neurauter remove the § 102 (e) rejection of claims 1, 12, 24, 27, and 43.

Rejection of Claims under 35 U.S.C. § 102 (e) to Stimmel

Claims 1, 12, 24, 27, and 43 were also rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,678,719 to Stimmel. Again, however, these independent claims recite many features that are not taught or suggested by Stimmel. The patent to Stimmel determines the status of a user and then provides a selection of communications methods for establishing a communication with that user. See, e.g., U.S. Patent 6,678,719 to Stimmel (Jan.

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13, 2004) at column 2, lines 1-20 and at column 3, lines 28-65. Still, though, the patent to Stimmel fails to disclose or suggest *"storing a profile associated with a second user, the second user's profile assigned a random and unique code number, and the second user's profile requiring a password to access the profile."* The patent to Stimmel also fails to disclose or suggest *"exchanging the second user's code number and password with the first user, thus allowing the first user to access the second user's profile."*

Stimmel, then, cannot anticipate claims 1, 12, 24, 27, and 43. These claims recite many features that *Stimmel* fails to disclose or suggest. The Assignee, then, respectfully requests that Examiner Neurauter remove the § 102 (e) rejection of claims 1, 12, 24, 27, and 43.

Rejection of Claims under 35 U.S.C. § 103 (a)

Claims 15 and 20 were rejected under 35 U.S.C. § 103 (a) as being obvious over *Armstrong* in view of *Luzzetti*. If the Office wishes to establish a *prima facie* case of obviousness, three criteria must be met: 1) combining prior art requires "some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success; and 3) all the claimed limitations must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8th Edition) (hereinafter "M.P.E.P.").

Claims 15 and 20, however, cannot be obvious over *Armstrong* in view of *Luzzetti*. Claims 15 and 20 are dependent upon their respective base claims and, thus, incorporate the same distinguishing features. As the above paragraphs showed, both *Armstrong* and *Luzzetti* fail to teach or suggest *"storing a profile associated with a second user, the second user's profile assigned a random and unique code number, and the second user's profile requiring a password to access the profile."* The combined teaching of *Armstrong* and *Luzzetti* also fails to teach or suggest *"exchanging the second user's code number and password with the first user, thus allowing the first user to access the second user's profile."* One of ordinary skill in the art, then,

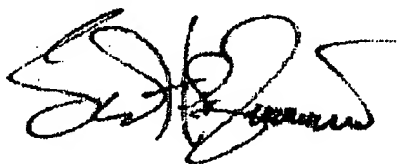
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would not think that claims 15 and 20 were obvious. The Assignee, then, respectfully requests that Examiner Neurauter remove the § 103 (a) rejection of claims 15 and 20.

If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 469-2629 or scott@scottzimmerman.com.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott P. Zimmerman', with a stylized flourish at the end.

Scott P. Zimmerman
Attorney for the Assignee, Reg. No. 41,390